



**Construction
General Contracting**

**P.O. Box 282
Price, Utah 84501
Phone (435) 637-3495
Fax (435) 637-3497**

**Site Planning
Subdivision Planning
Land Development**

July 26, 2010

Daron Haddock
Environmental Manager
State of Utah Department of Natural Resources
Division of Oil, Gas and Mining
PO Box 145801
Salt Lake City 84114-5801

Dear Daron;

Nelco Contractors Inc. is ready to start mining the Cherry Hill Mine Site. Enclosed is the Notice of Intent to Commence Large Mining Operations. As the review process moves forward I have two requests.

- 1- Let me know how much the bond will be so I can get that in your hands immediately. After you receive the bond we request that you allow us to begin mining on the disturbed footprint of the old mine site while you review the application.
- 2- After you receive the bond we request the escrowed funds be released to Nelco Contractors Inc. I have enclosed a copy of Emery Industrial's release and Powell Rock's release of those funds.

We look forward to working with your office in the future. We have no immediate sales for the limestone but we would like to get up there and make some products that we can use to advertise and begin selling the rock.

If you allow us to begin mining under a small mine permit temporarily we will not need to get out of the old disturbed area for any of our work.

Please let me know if we can assist in any way.


Larry Jensen
Vice President
Nelco Contractors Inc.
435-637-3495 office
435-636-5268 cell
larry@nelcocontractors.com

RECEIVED

AUG 02 2010

DIV. OF OIL, GAS & MINING

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

Emery Industrial Resources,)	SETTLEMENT AGREEMENT
Inc.; and Dan Powell,)	
)	Case No. 20090630-CA
Plaintiffs and Appellants,)	
)	
v.)	Trial No. 050400718
)	
E.J. Stokes; Larry Jensen;)	
Nelco Contractors, Inc.; and)	
John Does 1-10,)	
)	
Defendants and Appellees.)	

Appellants Emery Industrial Resources, Inc. and Dan Powell (collectively "Appellants"), and Appellees, E.J. Stokes, Larry Jensen, and Nelco Contractors, Inc. (collectively, "Appellees"), participated in settlement discussions under the direction of the Appellate Mediation Office. As a result of those discussions, the parties were able to reach this agreement.

In consideration of the premises herein stated, the parties do hereby stipulate and agree as follows:

1. Within 30 days of the execution of this Agreement, Appellees shall pay to Emery Industrial Resources, Inc. a lump sum payment of \$50,000 in valid funds. Appellants shall provide a W-9 form to Appellees, with the required information for the "payee" of the settlement payment.
2. Within 30 days of the execution of this Agreement, Appellants shall identify which of the existing piles of stockpiled materials (located on E.J. Stokes' property) Appellants want to use for purposes of removing up to, but not more than, 13,000 tons of stockpiled materials. Appellants shall not remove any sub-surface materials, nor shall Appellants remove or disturb any materials that have already been used for reclamation.
3. On or before December 1, 2009, Appellees may, in their discretion, move and consolidate the selected materials to a location on the property that is readily accessible, so that such materials and Appellants' removal of the same will not interfere with Appellees' activities at the property.

4. On or before November 1, 2010, Appellants may, at their own cost and expense, remove up to, but not more than, 13,000 tons of the above-grade stockpiled materials that were selected by Appellants and, if applicable, moved/consolidated by Appellees. Appellants shall be responsible for obtaining all necessary permits and licenses from the applicable state, county and regulatory authorities for removing such stockpiled materials. Appellants shall not be required to make any royalty payments to Appellees regarding the stockpiled materials that Appellants remove from the property pursuant to this Agreement.

5. Appellants' right to remove the stockpiled materials (up to a total of 13,000 tons) shall terminate and expire as of November 2, 2010.

6. Appellants hereby fully and forever waive and release any and all claims to and rights in the funds held by the Division of Oil, Gas and Mining relating to this property, including, without limitation, any and all funds held by the Division to satisfy reclamation obligations regarding the property. Appellants and Appellees jointly authorize and instruct the Division to release such funds to Appellees.

7. Appellees shall be fully responsible for all reclamation obligations regarding the property, and Appellees shall indemnify and hold harmless Appellants from and against any and all future costs of fulfilling the reclamation obligations regarding the property.

8. Except for the obligations of this Agreement, Appellants and their respective owners, officers, agents, contractors, managers, officers, successors and assigns fully and forever release and discharge Appellees and their respective owners, officers, agents, contractors, managers, officers, successors and assigns from and against any and all claims, actions, liabilities, judgments, fees, costs and expenses, whether known or unknown, existing at law or in equity, arising on or before the date of this Agreement, including, without limitation, any and all claims, actions, and liabilities that were or could have been raised or asserted in this action at trial or on appeal.

9. Except for the obligations of this Agreement, Appellees and their respective owners, officers, agents, contractors, managers, officers, successors and assigns fully and forever release and discharge Appellants and their respective owners, officers, agents, contractors, managers, officers, successors and assigns from and against any and all claims, actions, liabilities, judgments, fees, costs and expenses, whether known or unknown, existing at law or in equity, arising on or before the date of this Agreement, including, without limitation, any and all claims, actions, and liabilities that were or could have been raised or asserted in this action at trial or on appeal.

10. The parties hereto acknowledge and agree that they have had an adequate opportunity to review and understand this Agreement, and that they have been represented by legal counsel of their choice throughout the negotiations and approval of the terms of this Settlement Agreement. The parties represent and warrant that they intend to be bound by, and comply with, the terms and provisions of this Agreement.


11. This Agreement contains the full understanding of the parties with respect to the subject matter hereof, and contains all of the terms and provisions of their agreement. This is a fully integrated agreement which cannot be altered or amended except by a written document duly signed by all of the Parties.


12. In the event of any action relating to the interpretation or enforcement of this Agreement, the prevailing party shall be entitled to an award of attorney fees and court costs, to be paid by the nonprevailing party.


13. Each party shall be responsible for their own costs and fees on appeal and at trial.

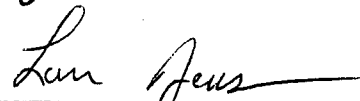
14. Upon receipt of the \$50,000 settlement payment referenced above, the parties hereby authorize their attorneys to sign the necessary court documents required to obtain a dismissal, with prejudice, of this action and the appeal thereof.

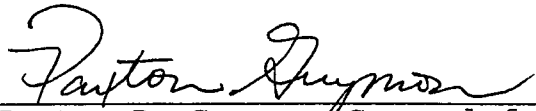
Dated this 25th day of September, 2009.


Dan Powell, Appellant on behalf
of himself and Emery Industrial
Resources, Inc.

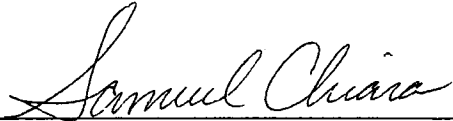

Guy L. Black,
Counsel for Appellants


E.J. Stokes, Appellee


Larry Jensen, individually and
on behalf of Nelco Contractors, Inc.



Paxton R. Guymon, Counsel for
Appellee, E.J. Stokes



Samuel Chiara, Counsel for
Appellees Larry Jensen and Nelco
Contractors, Inc.

10/30/2009
6216575532

This is a LEGAL COPY of
your check. You can use it
the same way you would
use the original check.

10/29/2009

MELCO INC 04-01 P.O. Box 282 Paw, Utah 84051		ZIONS FIRST NATIONAL BANK PRIME UT 84001 31-07-240	57803
PAY TO THE ORDER OF Emery Industrial Resources, Inc.		\$	50,000.00
Fifty Thousand and 00/100		DOLLARS @	
Emery Industrial Resources, Inc.			
ALV 5700		<i>Long Jones</i>	

124080054 2009-10-30
ZIONS BANK PK-4
061-PL4-2004

10/27/2009

EMERY INDUSTRIAL RESOURCES, INC.

PO BOX 282

PAW, UTAH 84051

Robert J. Jones
for E.I.R. Inc
24888

324080003 10/29/2009
3500011435
101000046 10/30/2009
6216575532

Do not endorse or write below this line.

1944-1945

1946-1947

1948-1949

1950-1951

1952-1953

1954-1955

1956-1957


1958-1959

RELEASE

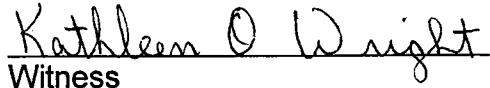
FOR THE SOLE CONSIDERATION OF \$6000.00 (Six Thousand Dollars), the undersigned hereby releases and forever discharges any claim to any funds currently held or future funds held by The Utah Division of Oil, Gas and Mining or any bond money held.

The undersigned hereby declares that the terms of this settlement have been completely read and are fully understood and voluntarily accepted for the purpose of making a full and final compromise adjustment and settlement of any and all claims relating to the Cherry Hill Limestone Quarry.

Dated: October 19, 2009



Steve Powell,
President of Powell Rock Products



Witness

NELCO INC
CONTRACTORS
P.O. Box 282
Price, Utah 84501

04-91

ZIONS FIRST NATIONAL BANK
PRICE, UT 84501
31-5/1240

58115

10/19/2009

© 2005 INTUIT INC. # 785 1-800-433-8810

PAY TO THE ORDER OF Stephen Powell

\$ **6,000.00

Six Thousand and 00/100*****

DOLLARS  

Stephen Powell

MEMO 5700

NELCO CONTRACTORS, INC.

Stephen Powell
5700 · Accounting/Legal

10/19/2009

58115
6,000.00

Zions - New Checking 5700

6,000.00

NELCO CONTRACTORS, INC.

Stephen Powell
5700 · Accounting/Legal

10/19/2009

58115
6,000.00

PAYMENT
RECORD

Zions - New Checking 5700

6,000.00